

In the United States District Court of Delaware

Harry L. Samuel,
Plaintiff

v.

C.A. NO. 05-037-SLR

FIRST Correctional Medical
et al
Defendants

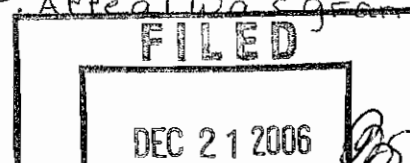
Regarding District Court order for First Correctional Medical to respond to Plaintiff Discovery request number 2, 4, and 5.

The Court/order notes the medical records filed do not seem to include those relating to the time period at issue 9-2004 to 9-2006.

On December 15, 2006, Plaintiff received Medical records, Dental Policy of FCM, and FCM answer to Plaintiff's Discovery.

Plaintiff submit that FCM Policy states that inmate is assigned a Priority of need by Category of dental treatment. Page 2 of 3 Policy number: D-3, E. Dental Classification. Plaintiff filed a sick Call Slip Complaining of Pain and filling came out on 9-3-04 Exhibit B. (See E. Dental Classification I. Priority I and 3. Priority 3, also Pages 3 and 4 of 5 Policy number: D1 Category I, II, and III).

FCM Policy Number: D7, Page 2 of 3 state at 2. each routine sick Call request is normally scheduled within five to seven days also at B. The Dental Clinic Log/Appointment Book state that The use of methods other than the appointment book such as waiting list are not authorized. However, Plaintiff file a sick Call at the Prison (FCM) on 9-3-2004 thereafter when one month Passed and Plaintiff still had not seen a dentist. Plaintiff file another sick call slip on 10-2-2005. Plaintiff was seen by the Dental assistant 10-7-2004; dental assistant (She) told Plaintiff, Plaintiff would have to wait eight to nine months for a filling. after the sick call Plaintiff filed a Medical Grievance and was also told 8 to 9 month wait for a filling. next Plaintiff had a hearing with Dr. Munson and was told 8 to 9 ~~month~~ month wait for a Filling (see Grievance Report/Information MGC page 7 of 7). next Plaintiff appealed to the Bureau Chief. Appeal was granted on



2-22-2005. The Bureau Chief concurred with the recommendation of the Bureau Grievance officer that FCM resolve the dental Services availability Problem, reporting that inordinate delays lead to more serious and expanding medical related issues, and declared an 8 to 9 month wait for tooth repair is unacceptable thereafter several more months passed an Plaintiff still had not had his tooth filled until 6 ~~months~~ months and 2 weeks after Plaintiff appeal. Failure to treat Prisoner's cavities and broken tooth for at least seven months, during which time Prisoner complained of Pain, constituted deliberate indifference. U.S.C.A. Const. Amend. 8; 42 U.S.C.A. § 1983; Fed. Rules Civ. Proc. Rule 56.28 U.S.C.A.

Plaintiff submit to the District Court that the Medical records submitted by FCM do not relate to the time frame or the claim in dispute (9-2004 to 9-2005 regarding Plaintiff tooth Problems) in regard to discovery request number 5 which states, state the dates with all names, titles and duty of all D.C.C. FCM, and CMS that responded to, examined, treated, filled Plaintiff tooth. Plaintiff submit the only submission(s) by FCM is 2 of Plaintiff sick call slips dated 9-3-04 and 10-2-04 that only state seen 10/7/04 with a initial SAW? FCM did not submit dental assistant's full name. [Dentist name was not submitted]

Plaintiff was seen 10-7-04 by SAW? (for sick call). next Plaintiff was seen by a dentist or assistant? (at Plaintiff Grievance examination/hearing and investigator; Wolken, Gina and TK Kionke). next
Next Plaintiff a hearing with Dr. Munson

Plaintiff request that the District Court order FCM to produce Plaintiff Discovery request number 5 and 4. in addition Plaintiff request the District Court give a judgement in Plaintiff favor pursuant to Fed. Rule Civil Procedure Rule 37 and grant Plaintiff Complaint.

Date 12-19-2006

Respectfully Submitted
very truly yours
Harry L. Samuel, Pro se

DELAWARE DEPARTMENT OF CORRECTIONS
REQUEST FOR MEDICAL/DENTAL SICK CALL SERVICES
FACILITY: DELAWARE CORRECTIONAL CENTER
This request is for (circle one): MEDICAL DENTAL MENTAL HEALTH

Harry Samuel 23, C, I, U
 Name (Print) Housing Location
8-17-62 201360 9- - 05
 Date of Birth SBI Number Date Submitted

Complaint (What type of problem are you having)? on about 9-7-04 I was
put in Max at which time 9-7-04 I requested
Dental Care. on 11-2-04 I was handcuffed behind
my back during Dental Treatment with TK Kionke
the handcuffs and being handcuffed behind my back gave me injuries
and pain to my hand, right, and shoulder I need to see Doctor it got worst.

Harry L. Samuel
 Inmate Signature

Date

The below area is for medical use only. Please do not write any further.

S:

O:

Temp: _____

Pulse: _____

Resp: _____

B/P: _____

WT: _____

A:

P:

E:

Provider Signature & Title

Date & Time

3/1/99 DE01

FORM#:

MED
263

Exhibit - 26

9/9/04

DELAWARE DEPARTMENT OF CORRECTIONS
REQUEST FOR MEDICAL/DENTAL SICK CALL SERVICES
FACILITY: DELAWARE CORRECTIONAL CENTER
This request is for (circle one): MEDICAL DENTAL MENTAL HEALTH

Harry Samuel
 Name (Print)

21 B 9 L

Housing Location

8-17-62
 Date of Birth

00201360
 SBI Number

9-3-04
 Date Submitted

Complaint (What type of problem are you having?) my tooth is Chipped or the
filling came out. If its not filled soon I will loose my tooth
I have pain and cant sleep

Harry Samuel
 Inmate Signature

9-3-04

Date

The below area is for medical use only. Please do not write any further.

S:

See 10/11/04 [initials]

O: Temp: _____ Pulse: _____ Resp: _____ B/P: _____ WT: _____

A:

P:

E:

Provider Signature & Title

Date & Time

Subject: Dental Care	Page 3 of 5
Chapter: Health Care	Policy Number: D-1

Documentation will minimally note any missing teeth, any obvious dental decay, and the presence of dental appliances. The attending dentist may vary from the time schedule on an individual patient basis if it is judged to be necessary for the protection, safety, and welfare of the facility operation.

3. A dental treatment plan with inmate participation will be established. The care plan should include dental objectives, interventions and methods of evaluation care. Specific areas of planning should include medication, laboratory tests, and diet and health education as appropriate. This treatment plan will be reassessed and may be modified by the dentist. The following categories will define the treatment priorities:

- a. Category I:

Emergent care requiring immediate treatment will be provided for all inmates at the facility. This level of care includes treatment of the following:

- i. Avulsed dentition
- ii. Fractured dentition with pulpal exposure
- iii. Facial trauma
- iv. Acute periapical abscesses
- v. Extensive carious lesions
- vi. Acute oral pathology

- b. Category II:

Priority care, which if left untreated, would cause bleeding, pain, swelling or, which has the potential to cause eminent acute infection. This condition should be treated to prevent it from becoming a Category I. If appropriate, this case may be delayed until transfer to the parent institution and would include, but not be limited to, treatment of the following:

- i. Acute periodontal conditions
- ii. Chronic oral pathology

Subject: Dental Care	Page 4 of 5
Chapter: Health Care	Policy Number: D-1

c. Category III:

Routine dental services will include, but not be limited to, restorative care to:

- i. Stop disease processes
- ii. Prevent extractions
- iii. Restore teeth
- iv. Improve function
- v. Maintain the integrity of the dental arches
- vi. Prosthetic replacement of dentition (partial and complete dentures)

4. As part of routine dental service provision, a preventative dental program will be implemented, which includes a scheduling system to maintain these services. The delivery of routine services is contingent upon the maintenance of an acceptable plaque index by the inmate. The preventative dental program should consider:

- a. Oral prophylaxis
- b. Proper oral hygiene instruction
- c. Distribution of dental information
- d. Selection of proper dentifrice and toothbrush to control and prevent abrasion
- e. Dietary consideration related to erosion

F. DENTAL EMERGENCIES

An inmate with a dental emergency will be taken to the appropriate outside source. The FCM dentist will consult with appropriate specialists as required. The appropriate process for securing outside emergency dental care is to call the provider on-call via the physician answering service.

Subject: Dental- Education and Treatment	Page 2 of 3
Chapter: Health Care	Policy Number: D-3

part of each inmate's regular intake and classification procedure, a dentist, or health care personnel properly trained and designated by the dentist, provides a dental screening. The initial screening includes instruction on dental hygiene.

- B. A dental examination will be performed within twelve months, supported by x-rays, if necessary.
- C. Treatment of dental pain, sedative fillings, extractions of non-restorable teeth, gross debridement of symptomatic areas and repair of partial and dentures for those inmates with less than twelve months of detention.
- D. Treatment plan with x-rays for those inmates who request care with more than twelve months of detention.
- E. DENTAL CLASSIFICATION

Each inmate is assigned a priority of need by category of dental treatment. The highest assigned priority of need is the inmate's dental classification.

- 1. Priority 1 – Individuals with emergent or urgent treatment needs (See also 3, below)
- 2. Priority 2 – Individuals with interceptive treatment needs.
- 3. Priority 3 – Individuals with corrective treatment needs.
- 4. Priority 4 – Individuals with elective or no treatment needs.

F. PRIORITY 1 CONDITIONS

- 1. The screening dentist provides for the relief of acute oral and maxillofacial conditions characterized by trauma, infection, pain, swelling or bleeding that are likely to remain acute or worsen without intervention. The screening dentist refers those acute oral and maxillofacial conditions, which require specialty consultation or treatment directly to the appropriate General Hospital Oral Surgery Outpatient Clinic.
- 2. For those Priority 1 conditions that require postoperative follow-up, or any dental condition which the screening dentist determines should be brought to the attention of the dentist at the inmate's unit of assignment, the screening dentist (or the oral surgeon if the patient was referred) will list

Subject: Dental Recording and Scheduling Inmate Visits	Page 2 of 3
Chapter: Health Care	Policy Number: D-7

1. Only one sick call log is used per clinic regardless of the number of care providers assigned to the clinic.
2. Each routine sick call request requiring a clinic visit is to be recorded in the sick call log, and is normally scheduled within five to seven days. Scheduling of sick call requests beyond this guideline is acceptable when a disproportionately high number of requests have been received in one day.
3. Unscheduled visits are usually those resulting from an indication of an emergency or urgent need to be seen by the dentist. Such visits are to be recorded in the sick call register on the same page for that day's routine sick call visits. "Unscheduled" is recorded next to the inmate's name.
4. General requirements for maintaining the sick call register
 - a. A new page of the register is started for each day's sick call.
 - b. The date and care provider's name is placed at the top of each page.
 - c. If there is more than one care provider, the name of the additional care provider is entered in the Health Care Staff column on the appropriate line.
 - d. The service provided and inmate disposition is recorded for each visit, to include "F" for failed appointments.

B. The Dental Clinic Log/Appointment Book is used for recording and scheduling all routine visits. The use of methods other than the appointment book for recording the names of inmates/residents to be scheduled for treatment, such as waiting lists or card indexes, are not authorized.

1. Each care provider is responsible for assuring the maintenance of their appointments.
2. Inmates are scheduled in the appointment book based on priority of need.
3. Inmates should not be scheduled in the appointment book beyond five weeks in advance.
4. General requirements for maintaining the appointment book:
 - a. Pages should not be removed or shifted in the appointment book.
 - b. Each page may be left undated until the date of the appointments.

Subject: Dental Recording and Scheduling Inmate Visits	Page 3 of 3
Chapter: Health Care	Policy Number: D-7

- c. The type of treatment planned should be recorded for each inmate scheduled. This should be entered at the time the inmate is scheduled and on the line beneath the name (i.e., two lines are used for each inmate scheduled). Other notations may be made as needed to include "F" for failed appointments.

VII. MONITORING/EVALUATION:

This policy is applicable without changes as noted to the following facilities:

- Sussex Correctional Institution
- Delaware Correctional Center
- Baylor Women's Correctional Institution
- Gander Hill Multi-Purpose Criminal Justice Facility

VIII. ATTACHMENTS

1. Dental Sick Call Log
2. Dental Sick Call Appointments

Certificate of Service

I, Harry Samuel, hereby certify that I have served a true
and correct cop(ies) of the attached: Plaintiff Motion/Letter re: Discovery
#2,4, and 5 (Rule FRCP 37) Exhibits, Policy upon the following
parties/person (s):

TO: Dana S. Monzo
1225 N. King Street
Suite 1100
P.O. Box 397
Wilmington, DE.
19899-0397

TO: _____

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United
States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE
19977.

On this 19th day of December, 2006

Harry L. Samuel, Pro se

Legal Mail

M. HARRY Samuel
UNIT 23, B, 2, U
DELAWARE CORRECTIONAL CENTER
181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

TO OFFICE of the clerk
United States District Court
844 N. King Street, Lockbox 18
Wilmington, Delaware
19801-3570

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